

**United States District Court**  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

MARK B. CUNNINGHAM,

*Plaintiff,*

v.

CONCENTRIX SOLUTIONS  
CORPORATION,

*Defendant.*

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Civil Action No. 4:20-cv-00661

Judge Mazzant

**VERDICT FORM**

We, the Jury, find as follows:

**SECTION 1: TITLE VII GENDER DISCRIMINATION**

**Question No. 1(a)**

Has Plaintiff Mark B. Cunningham proved that his gender was a motivating factor in Defendant Concentrix Solutions Corporation's decision to not promote him?

Answer "Yes" or "No."

Answer: Yes

If you answered "Yes" to Question No. 1(a), then proceed to Question No. 1(b). If you answered "No" to Question No. 1(a), proceed to Section 2.

**Question No. 1(b)**

Has Defendant Concentrix Solutions Corporation proved that it would have made the same decision to not promote Plaintiff Mark B. Cunningham even if it had not considered his gender?

Answer "Yes" or "No."

Answer: Yes

**Proceed to Section 2.**

**SECTION 2: TITLE VII RACIAL DISCRIMINATION**

**Question No. 2(a)**

Has Plaintiff Mark B. Cunningham proved that his race was a motivating factor in Defendant Concentrix Solutions Corporation's decision to not promote him?

Answer "Yes" or "No."

Answer: No

If you answered "Yes" to Question No. 2(a), then proceed to Question No. 2(b). If you answered "No" to Question No. 2(a), proceed to Section 3.

**Question No. 2(b)**

Has Defendant Concentrix Solutions Corporation proved that it would have made the same decision to not promote Plaintiff Mark B. Cunningham even if it had not considered his race?

Answer "Yes" or "No."

Answer: \_\_\_\_\_

**Proceed to Section 3.**

**SECTION 3: ADEA AGE DISCRIMINATION**

**Question No. 3**

Has Plaintiff Mark B. Cunningham proved that, but for his age, Defendant Concentrix Solutions Corporation would have promoted him?

Answer "Yes" or "No."

Answer: No

**Proceed to Section 4.**

**SECTION 4: RETALIATION UNDER TITLE VII**

**Question No. 4(a)**

Has Plaintiff Mark B. Cunningham proved that he engaged in a protected activity under Title VII?

Answer "Yes" or "No."

Answer: No

If you answered "Yes" to Question No. 4(a), then proceed to Question No. 4(b). If you answered "No" to Question No. 4(a), proceed to Section 5.

**Question No. 4(b)**

Has Plaintiff Mark B. Cunningham proved that, but for his complaint, Defendant Concentrix Solutions Corporation would not have terminated him?

Answer "Yes" or "No."

Answer: \_\_\_\_\_

**Proceed to Section 5.**

**SECTION 5: RETALIATION UNDER ADEA**

**Question No. 5(a)**

Has Plaintiff Mark B. Cunningham proved that he engaged in a protected activity under the ADEA?

Answer "Yes" or "No."

Answer: No

If you answered "Yes" to Question No. 5(a), then proceed to Question No. 5(b). If you answered "No" to Question No. 5(a), proceed to Section 6.

**Question No. 5(b)**

Has Plaintiff Mark B. Cunningham proved that, but for his complaint, Defendant Concentrix Solutions Corporation would not have terminated him?

Answer "Yes" or "No."

Answer: \_\_\_\_\_

**Proceed to Section 6.**

**SECTION 6: TITLE VII DAMAGES**

Only answer Section 6 if you answered "Yes" to Question No. 1(a) and "No" to Question No. 1(b) and/or if you answered "Yes" to Question No. 2(a) and "No" to Question No. 2(b) and/or if you answered "Yes" to Question No. 4(b). If not, proceed to Section 7.

**Question No. 6(a)**

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Plaintiff Mark B. Cunningham for the damages, if any, you have found Defendant Concentrix Solutions Corporation's wrongful conduct, if any, caused Plaintiff Mark B. Cunningham?

Answer in dollars and cents for the following items and none other:

- a. Past wages and benefits from August 1, 2020, to the date of your verdict.

\$ \_\_\_\_\_

- b. Past pain and suffering, mental anguish, inconvenience, and loss of enjoyment of life.

\$ \_\_\_\_\_

- c. Future pain and suffering, mental anguish, inconvenience, and loss of enjoyment of life.

\$ \_\_\_\_\_

**Question No. 6(b)**

Do you find that Plaintiff Mark B. Cunningham failed to reduce his damages through the exercise of reasonable diligence in seeking, obtaining, and maintaining substantially equivalent employment after the date of any adverse employment action?

Answer "Yes" or "No."

Answer: \_\_\_\_\_

Answer Question No. 6(c) if you answered “Yes” to Question No. 6(b). If you answered “No” to Question No. 6(b), proceed to Question No. 6(d).

**Question No. 6(c)**

How much would Plaintiff Mark B. Cunningham have earned had he exercised reasonable diligence under the circumstances to minimize his damages?

Answer in dollars and cents for the following items and none other:

\$ \_\_\_\_\_

**Question No. 6(d)**

Has Defendant Concentrix acted with malice or reckless indifference to Plaintiff Mark B. Cunningham’s federally protected right to be free from discrimination?

Answer “Yes” or “No.”

Answer: \_\_\_\_\_

Answer Question No. 6(e) if you answered “Yes” to Question No. 6(d). If you answered “No” to Question No. 6(d), proceed to Section 7.

**Question No. 6(e)**

Has Defendant Concentrix made a good faith effort to comply with Title VII?

Answer “Yes” or “No.”

Answer: \_\_\_\_\_

Answer Question No. 6(f) if you answered “No” to Question No. 6(e). If you answered “Yes” to Question No. 6(e), proceed to Section 7.

**Question No. 6(f)**



What sum of money, if any, should be assessed against Defendant Concentrix as punitive damages?

Answer in dollars and cents for the following items and none other:

\$ \_\_\_\_\_

**Proceed to Section 7.**

**SECTION 7: ADEA DAMAGES**

Only answer Section 7 if you answered “Yes” to Question No. 3 **and/or** “Yes” to Question No. 5(b). If not, proceed to the signature line.

**Question No. 7(a)**

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Plaintiff Mark B. Cunningham for the damages, if any, you have found Defendant Concentrix Solutions Corporation’s wrongful conduct, if any, caused Plaintiff Mark B. Cunningham?

Answer in dollars and cents for the following items and none other:

- a. Past wages and benefits from August 1, 2020, to the date of your verdict.

\$ \_\_\_\_\_

**Question No. 7(b)**

Do you find that Plaintiff Mark B. Cunningham failed to reduce his damages through the exercise of reasonable diligence in seeking, obtaining, and maintaining substantially equivalent employment after the date of any adverse employment action?

Answer “Yes” or “No.”

Answer: \_\_\_\_\_

Answer Question No. 7(c) if you answered “Yes” to Question No. 7(b). If you answered “No” to Question No. 7(b), proceed to Question No. 7(d).

**Question No. 7(c)**

How much would Plaintiff Mark B. Cunningham have earned had he exercised reasonable diligence under the circumstances to minimize his damages?

Answer in dollars and cents for the following items and none other:

\$ \_\_\_\_\_

**Question No. 7(d)**

Was Defendant Concentrix's failure to promote Plaintiff Mark B. Cunningham willful?

Answer "Yes" or "No."

Answer: \_\_\_\_\_

**Proceed to the signature line.**

Date: 09/02/2022

Presiding Juro

